

COURTROOM POLICIES AND PROCEDURES
HONORABLE ERITHE A. SMITH
COURTROOM 5A

The following is a summary of general courtroom policies and procedures which will be observed by Judge Smith. Such policies and procedures are intended as a supplement to and not a replacement for the provisions of the Bankruptcy Code ("Code"), the Federal Rules of Bankruptcy Procedure ("Bankruptcy Rules"), the Federal Rules of Civil Procedure ("Federal Rules") and the Local Rules for the Central District of California ("Local Rules"), all of which are applicable to practice before this Court. The following summary is not intended to cover all circumstances of matters before the Court and certain policies and procedures may be adjusted in certain cases where appropriate.

I. MOTIONS IN GENERAL

A. Evidentiary Requirements:

All motions and applications must be supported by declaration(s). Pleadings submitted without supporting declarations will likely be denied, even if no opposition is filed. In matters where an appraisal is submitted in support of a pleading, e.g., relief from stay matters, the appraisal must be authenticated by a declaration of the appraiser or the appraisal will not be considered.

B. Motions without Hearings:

With respect to all motions filed pursuant to Local Rule 9013-1(g) or otherwise not requiring a hearing absent an objection and request for a hearing, the moving party must file a declaration stating that no opposition to the motion has been served within the objection period. The order will not be signed absent such a declaration.

II. RELIEF FROM STAY MOTIONS

A. Evidentiary Requirements:

Moving parties asserting a security interest in property of the debtor must attach evidence of such recorded security interest to the motion. In cases where the original note/deed of trust has been assigned, copies of all recorded assignments must be attached to the motion. Stated otherwise, no orders granting relief from the stay will be signed absent properly authenticated documentary evidence of the movant's beneficial interest in the debtor's property.

With respect to unlawful detainer motions, such motions must be supported by a declaration of the owner or property manager and a properly authenticated copy of the unlawful detainer complaint (with state court's stamp) and/or the state court judgment. Failure to provide such evidence may result in denial of the motion even if the debtor fails to respond or appear.

B. Extraordinary Relief:

1. Prospective Relief as to Debtor (i.e., relief from the stay effective in any subsequent bankruptcy filed by the debtor within a 180-day period): Granted only upon good cause shown, e.g., multiple filings.

2. "In Rem" Relief (i.e., relief from the stay effective in any subsequent bankruptcies -- even non-debtors -- involving the subject property): Granted only in the most egregious bad faith cases, usually involving multiple transfers of property.

III. ADVERSARY PROCEEDINGS

A. Motions for Entry of Default Judgment

A prove-up hearing is required. The motion must be served upon the defendant in accordance with Local Rule 9013-1 and must be supported by declaration and appropriate documentary evidence, e.g., invoices, statements, contracts, etc. Absent exigent circumstances (as shown by declaration of the moving party's attorney), a motion for entry of default judgment will not be continued more than once.

B. Joint Status Report/Joint Pretrial Order:

Joint Status Reports and Joint Pretrial Orders must be timely filed in accordance with Local Rule 7016-1. Parties failing to do so will be subject to a minimum sanction of \$100.00 or other sanctions as allowed under Local Rule 7016-1. Failure to appear for a status conference or pretrial conference may result in a minimum sanction of \$150.00 or other sanctions as allowed under Local Rule 7016-1. The attorney responsible for litigating the trial **MUST** appear at the pretrial conference. Failure to appear may result in the imposition of sanctions.

IV. SELF-CALENDARING

Judge Smith is currently utilizing the self-scheduling system for all hearings, with exceptions as noted in the self-scheduling instructions. Please call (714) 338-5300 to schedule a hearing before Judge Smith. If you should experience a problem, please contact Tina Duarte, Courtroom Deputy, directly at (714) 338-5360.

V. TENTATIVE RULINGS:

Judge Smith generally issues tentative rulings regarding law and motion matters by 5 p.m. of the day prior to the beginning of the hearing day. Tentative rulings are posted on the bulletin board outside the courtroom, at the attorney tables in the courtroom, and on Web PACER. Tentative rulings may not be rendered on every matter. If a tentative ruling has been issued and the moving party wishes to accept the tentative ruling, and 1) no opposition has been filed and, 2) the tentative ruling does not specifically require an appearance, the moving party need not check in or make an appearance. Proposed orders may be left in the order box at the Court Recorder's desk or lodged in the Clerk's Office.

If the moving party chooses to rest on the tentative ruling and an opposing party appears to argue against the ruling, the Court will determine if a continuance of the hearing is warranted and will notify the moving party of the continued hearing date. The court will not reverse a tentative ruling without a continued hearing.

VI. HEARINGS BY TELEPHONIC CONFERENCE CALL

Parties wishing to appear telephonically must coordinate directly

with Court Call, (the court's selected conference call coordinator) at (888) 882-6878, at least one day prior to the scheduled hearing. No prior approval is required by Judge Smith's chambers. However, if there are any questions regarding telephonic appearances, please contact Rosa Green, Judge Smith's Judicial Assistant, at (714) 338-5440.

VII. PROFESSIONAL EMPLOYMENT APPLICATIONS

In order to expedite the processing of professional employment orders, applicants should file a declaration attesting that no opposition to the application was received during the response period if in fact no such opposition was received. Otherwise, the execution of the employment order will be delayed pending the Court's determination that no opposition was filed.

VIII. SERVICE OF PLEADINGS

Failure to properly serve pleadings in accordance with applicable rules will result in either a continuance of the hearing or denial of the relief requested. Under Bankruptcy Rule 9014, certain contested matters must be served in accordance with Bankruptcy Rule 7004. For example, Rule 7004(b)(3) requires that service upon a corporation or partnership be made to the attention of an officer, managing or general agent or any other person authorized by appointment or by law to receive service.

IX. COURTROOM ETIQUETTE

Unless court is in session, please check in with the Court Recorder prior to your scheduled hearing. Do not approach or speak with the Court

Recorder while a hearing is in progress except to leave a proposed order in the order box. When leaving orders for the court's signature, write the calendar number of the case in the upper left-hand corner of the order.

The use of electronic devices (e.g., pagers, cellular phones, and other devices subject to ring or buzz) in the courtroom are **strictly** prohibited.

“Second Call” - If you have a conflict which needs to be placed on "second call", please contact Rosa Green, Judge Smith's Judicial Assistant at (714) 338-5440 . If you are not present when your matter is called, and no communication has been received, your motion may be denied for failure to appear.

COURT STAFF:

Rosa Green, Judicial Assistant	(714) 338-5440
Beth Gaschen, Law Clerk	(714) 338-5443
Tina Duarte, Courtroom Deputy	(714) 338-5360
Rick Reid, Court Recorder	(714) 338-5361
Sally Daniels, Court Recorder	(714) 338-5367